

AVIATION SECURITY STAKEHOLDER PARTICIPATION ACT
OF 2013

DECEMBER 2, 2013.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1204]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1204) to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Aviation Security Stakeholder Participation Act of 2013”.

SEC. 2. AVIATION SECURITY ADVISORY COMMITTEE.

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“§ 44946. Aviation Security Advisory Committee

“(a) ESTABLISHMENT.—The Assistant Secretary shall establish within the Transportation Security Administration an advisory committee to be known as the ‘Aviation Security Advisory Committee’.

“(b) DUTIES.—

“(1) IN GENERAL.—The Assistant Secretary shall consult the Advisory Committee on aviation security matters, including on the development, refinement, and implementation of policies, programs, rulemaking, and security directives pertaining to aviation security, while adhering to sensitive security guidelines.

“(2) RECOMMENDATIONS.—

“(A) IN GENERAL.—The Advisory Committee shall develop, at the request of the Assistant Secretary, recommendations for improvements to aviation security.

“(B) RECOMMENDATIONS OF SUBCOMMITTEES.—Recommendations agreed upon by the subcommittees established under this section shall be approved by the Advisory Committee for transmission to the Assistant Secretary.

“(3) PERIODIC REPORTS.—The Advisory Committee shall periodically submit to the Assistant Secretary—

“(A) reports on matters identified by the Assistant Secretary; and

“(B) reports on other matters identified by a majority of the members of the Advisory Committee.

“(4) ANNUAL REPORT.—The Advisory Committee shall submit to the Assistant Secretary an annual report providing information on the activities, findings, and recommendations of the Advisory Committee, including its subcommittees, for the preceding year.

“(5) FEEDBACK.—Not later than 90 days after receiving recommendations transmitted by the Advisory Committee under paragraph (4), the Assistant Secretary shall respond in writing to the Advisory Committee with feedback on each of such recommendations, an action plan to implement any of such recommendations with which the Assistant Secretary concurs, and a detailed justification for why any of such recommendations have been rejected.

“(6) CONGRESSIONAL NOTIFICATION.—Not later than 30 days after providing written feedback to the Advisory Committee in accordance with paragraph (5), the Assistant Secretary shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on such feedback.

“(7) REPORT TO CONGRESS.—Prior to briefing the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate in accordance with paragraph (6), the Assistant Secretary shall submit to such committees a report containing information relating to the recommendations transmitted by the Advisory Committee in accordance with paragraph (4).

“(c) MEMBERSHIP.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Assistant Secretary shall appoint the members of the Advisory Committee.

“(B) COMPOSITION.—The membership of the Advisory Committee shall consist of individuals representing not more than 32 member organizations. Each organization shall be represented by one individual (or the individual’s designee).

“(C) REPRESENTATION.—The membership of the Advisory Committee shall include representatives of air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, privacy organizations, the travel industry, airport based businesses, including minority owned small businesses, businesses that conduct security operations at airports, aeronautical repair stations, passenger advocacy groups, the aviation technology security industry, including biometrics, victims of terrorist acts against aviation, and law enforcement and security experts.

“(2) REMOVAL.—The Assistant Secretary may review the participation of a member of the Advisory Committee and remove such member for cause at any time.

“(3) PROHIBITION ON COMPENSATION.—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

“(4) MEETINGS.—The Assistant Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

“(d) AIR CARGO SECURITY SUBCOMMITTEE.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee an air cargo security subcommittee to provide recommendations on air cargo security issues, including the implementation of the air cargo security programs established by the Transportation Security Administration to screen air cargo on passenger aircraft and all-cargo aircraft in accordance with established cargo screening mandates.

“(2) MEETINGS AND REPORTING.—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding air cargo security. Such submissions shall include recommendations to improve the Transportation Security Administration’s cargo security initiatives established to meet the requirements of section 44901(g).

“(3) MEMBERSHIP.—The subcommittee shall—

“(A) include members of the Advisory Committee with expertise in air cargo operations; and

“(B) be cochaired by a Government and industry official.

“(e) GENERAL AVIATION SECURITY SUBCOMMITTEE.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee a general aviation subcommittee to provide recommendations on transportation security issues for general aviation facilities, general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

“(2) MEETINGS AND REPORTING.—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding aviation security at general aviation airports.

“(3) MEMBERSHIP.—The subcommittee shall—

“(A) include members of the Advisory Committee with expertise in general aviation; and

“(B) be cochaired by a Government and industry official.

“(f) PERIMETER SECURITY, EXIT LANE SECURITY, AND ACCESS CONTROL SUBCOMMITTEE.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee an airport perimeter security, exit lane security, and access control subcommittee to provide recommendations on airport perimeter security, exit lane security at commercial service airports, and access control issues.

“(2) MEETINGS AND REPORTING.—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding improving perimeter security, exit lane security at commercial service airports, and access control procedures at commercial service and general aviation airports.

“(3) MEMBERSHIP.—The subcommittee shall—

“(A) include members of the Advisory Committee with expertise in airport perimeter security and access control issues; and

“(B) be co-chaired by a Government and industry official.

“(g) RISK-BASED SUBCOMMITTEE.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee a risk-based subcommittee to provide recommendations on passenger screening policies and cargo.

“(2) MEETINGS AND REPORTING.—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding the Transportation Security Administration’s risk-based security programs.

“(3) MEMBERSHIP.—The subcommittee shall—

“(A) include members of the Advisory Committee with expertise in passenger advocacy and airport security operations; and

“(B) be cochaired by a Government and industry official.

“(h) SECURITY TECHNOLOGY SUBCOMMITTEE.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee a security technology subcommittee to provide recommendations on security technology issues, including harmonization of security technology standards and requirements.

“(2) MEETINGS AND REPORTING.—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding security technology. Such submissions shall include recommendations to improve the Transportation Security Administration’s utilization of security technology and harmonization of security technology standards and requirements. All recommendations shall be in furtherance of aviation security and technology neutral.

“(3) MEMBERSHIP.—The subcommittee shall—

“(A) include members of the Advisory Committee with expertise in checkpoint, baggage, and air cargo security technology; and

“(B) be co-chaired by a Government and industry official.

“(i) OTHER SUBCOMMITTEES.—The Assistant Secretary, in consultation with the Advisory Committee, may establish within the Advisory Committee any other subcommittee that the Assistant Secretary and Advisory Committee determine necessary.

“(j) SUBJECT MATTER EXPERTS.—Each subcommittee under this section shall include subject matter experts with relevant expertise who are appointed by the respective subcommittee chairperson.

“(k) NONAPPLICABILITY OF FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee and its subcommittees.

“(l) DEFINITIONS.—In this section, the following definitions apply:

“(1) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the Aviation Security Advisory Committee established under subsection (a).

“(2) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary of Homeland Security (Transportation Security Administration).

“(3) PERIMETER SECURITY.—The term ‘perimeter security’—

“(A) means procedures or systems to monitor, secure, and prevent unauthorized access to an airport, including its airfield and terminal; and

“(B) includes the fence area surrounding an airport, access gates, and access controls.”.

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following new item:

“44946. Aviation Security Advisory Committee.”.

PURPOSE AND SUMMARY

The purpose of H.R. 1204 is to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Aviation Administration (FAA) established the Aviation Security Advisory Committee (ASAC) in 1989 following the bombing of Pan American World Airways Flight 103. When the Transportation Security Administration (TSA) was established, the sponsorship of the ASAC transferred to TSA. Despite significant contributions to TSA policymaking, particularly with respect to air cargo security, and strong support from aviation security stakeholders who participated in the ASAC, TSA allowed the ASAC’s

charter to expire. Three months after Rep. Thompson of Mississippi introduced this legislation in the 112th Congress, on July 7, 2011, TSA published an announcement in the Federal Register to re-establish the ASAC, providing a setting for the aviation industry to formally provide TSA with their insights into the practical, on-the-ground considerations and impact of aviation security policies.

H.R. 1204 provides for the establishment of an ASAC to assist and make recommendations to the TSA Assistant Secretary on aviation security matters, including the development, implementation and refinement of policies, programs, rulemaking, and security directives pertaining to aviation security. The ASAC is directed to meet at least semi-annually and be composed of not more than 32 members including representatives from air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, privacy advocates, airport based businesses, businesses that conduct security operations at airports, aeronautical repair stations, the travel industry, the aviation technology security industry, law enforcement and security experts, and victims of terrorist acts against aviation. H.R. 1204 also provides for the establishment of five subcommittees to review and make recommendations on air cargo security, general aviation security, perimeter security, exit lane security, and access control, risk based security, and security technologies, respectively.

The Committee has received letters of support for H.R. 1204 from the Cargo Airline Association; the Association of Flight Attendants—CWA; U.S. Travel Association; Airports Council International-North America; Security Manufacturers Coalition; General Aviation Manufacturers Association; and Aircraft Owners and Pilots Association.

HEARINGS

Although no legislative hearings have been held on H.R. 1204, there have been several hearings in the 113th Congress by the Subcommittee on Transportation Security which have emphasized the importance of stakeholder perspectives. These include the following:

On March 14, 2013, the Subcommittee on Transportation Security held a hearing entitled “TSA’s Efforts to Advance Risk-Based Security.” The Subcommittee received testimony from Hon. John S. Pistole, Administrator, Transportation Security Administration, Department of Homeland Security.

The Subcommittee on Transportation Security held a hearing on April 11, 2013, entitled “TSA’s Efforts to Advance Risk-Based Security: Stakeholder Perspectives.” The Subcommittee received testimony from Mr. Ken Dunlap, Global Director, Security & Travel Facilitation, International Air Transport Association; Ms. Sharon L. Pinkerton, Senior Vice President, Legislative and Regulatory Policy, Airlines for America; Mr. Geoff Freeman, Chief Operating Officer and Executive Vice President, U.S. Travel Association; Mr. Michael C. Mullen, Executive Director, Express Association of America; Mr. Christopher U. Browne, Airport Manager, Washington Dulles International Airport, *testifying on behalf of the American Association of Airport Executives*; and Mr. David A. Borer, General Counsel, American Federation of Government Employees.

The Subcommittee on Transportation Security held a hearing on May 8, 2013, entitled “TSA Procurement Reform: Saving Taxpayer Dollars Through Smarter Spending Practices.” The Subcommittee received testimony from Ms. Karen Shelton Waters, Assistant Administrator, Office of Acquisition, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Paul Benda, Director, Advanced Research Projects Agency, Science & Technology Directorate, U.S. Department of Homeland Security; Mr. Stephen M. Lord, Director, Forensic Audits and Investigative Services, U.S. Government Accountability Office; and Mr. Charles K. Edwards, Deputy Inspector General, U.S. Department of Homeland Security.

The Subcommittee on Transportation Security held a hearing on July 17, 2013, entitled “Stakeholder Perspectives on TSA Acquisition Reform.” The Subcommittee received testimony from Mr. Marc Pearl, President & CEO, Homeland Security & Defense Business Council; Ms. Shené Commodore, Government Contracts & Business Manager, Intertek, *testifying on behalf of the Security Industry Association*; and Mr. Dolan P. Falconer, Jr., Co-Founder, Chairman & General Manger, Scan Tech Holdings.

COMMITTEE CONSIDERATION

112th Congress

In the 112th Congress, H.R. 1447, the predecessor bill, was introduced in the House on April 8, 2011, by Mr. Thompson of Mississippi and referred to the Committee on Homeland Security. Within the Committee, H.R. 1447 was referred to the Subcommittee on Transportation Security.

On September 21, 2011, the Chair discharged the Subcommittee on Transportation Security from further consideration of H.R. 1447. The Committee proceeded to the consideration of H.R. 1447 and ordered the measure to be reported to the House, without amendment, by voice vote.

The Committee reported H.R. 1447 to the House on November 4, 2011, as H. Rpt. 112–269.

The House considered H.R. 1447 under Suspension of the Rules, on June 26, 2012, and passed the bill on June 28, 2012 by voice vote.

H.R. 1447 was received in the Senate on June 29, 2012, read twice, and referred to the Senate Committee on Commerce, Science, and Transportation.

113th Congress

The Committee on Homeland Security met on October 29, 2013, to consider H.R. 1204, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. THOMPSON OF MISSISSIPPI (#1); was AGREED TO by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1204 offered by MR. PALAZZO (#1); was AGREED TO by voice vote.

Consisting of the following amendments:

Page 3, line 8, strike “and” and insert a comma.

Page 3, line 10, insert before the period at the end the following: “ ‘, and a detailed justification for why any of such recommendations have been rejected’ ”.

In section 2(a) in the proposed section 44946 of title 49, United States Code, in the proposed subsection (b)(1), insert “ ‘, refinement’ ” after “ ‘development’ ”.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1204 offered by MR. THOMPSON OF MISSISSIPPI (#1B); was AGREED TO by voice vote.

In section 2(a) in the proposed section 44946 of title 49, United States Code, redesignate subsections (h) through (k) as subsections (i) through (l), respectively.

In section 2(a), in the proposed section 44946 of title 49 United States Code, insert after subsection (g) a new subsection entitled “(h) Security Technology Subcommittee.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1204 offered by MR. HUDSON (#1C); was AGREED TO by voice vote.

In section 2 of the bill, in the proposed subparagraph (B) of subsection (c)(1) of the proposed section 44946 of title 49, United States Code, strike “30” and insert “32”.

In section 2 of the bill in the proposed subparagraph (C) of subsection (c)(1) of the proposed section 44946 of title 49, United States Code, insert “businesses that conduct security operations at airports, aeronautical repair stations,” before “passenger advocacy groups”.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1204 offered by MR. HORSFORD (#1D); was AGREED TO by voice vote.

In section 2(a), in the proposed section 44946 of title 49, United States Code, in the proposed subsection (f), amend the heading to read as follows: “Perimeter Security, Exit Lane Security, and Access Control Subcommittee”.

In section 2(a), in the proposed section 44946 of title 49, United States Code, in the proposed subsection (f)(1), strike “ ‘airport perimeter security subcommittee’ ” and insert “ ‘airport perimeter security, exit lane security, and access control subcommittee’ ”.

In section 2(a), in the proposed section 44946 of title 49, United States Code, in the proposed subsection (f)(1), insert after “ ‘perimeter security’ ” the following: “ ‘, exit lane security at commercial service airports,’ ”.

In section 2(a), in the proposed section 44946 of title 49, United States Code, in the proposed subsection (f)(2), insert after “ ‘perimeter security’ ” the following: “ ‘, exit lane security at commercial service airports,’ ”.

Subcommittee Consideration

The Subcommittee on Transportation Security met on July 24, 2013, to consider H.R. 1204, and ordered the measure to be forwarded to the Full Committee with a favorable recommendation, amended, by voice vote. The Subcommittee took the following actions:

The following amendments were offered:

An amendment offered by MR. RICHMOND (#1); was AGREED TO by voice vote.

In section 2(a), in the proposed section 44946 of title 49, United States Code, redesignate proposed subsections (i) and (j) as proposed subsections (j) and (k), respectively.

In section 2(a), in the proposed section 44946 of title 49, United States Code, insert after proposed subsection (h) the following new subsection “(i) Subject Matter Experts.”

An amendment offered by MR. ROGERS OF ALABAMA (#2); was AGREED TO by voice vote.

In section 2, in the proposed new section 44946 of title 49, United States Code, in the proposed subsection (b) of such proposed new section add a new section “(5) Feedback.”

An amendment offered by MRS. BROOKS OF INDIANA (#3); was AGREED TO by voice vote.

In section 2, in the proposed new section 44946 of title 49, United States Code, in the proposed subsection (c)(1)(C) of such proposed new section, strike “and the aviation technology security industry, including biometrics” and insert “the aviation technology security industry, including biometrics, victims of terrorist acts against aviation, and law enforcement and security experts”.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 1204.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1204, the Aviation Security Stakeholder Participation Act of 2013, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 21, 2013.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1204, the Aviation Security Stakeholder Participation Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1204—Aviation Security Stakeholder Participation Act of 2013

H.R. 1204 would establish, within the Transportation Security Administration (TSA), an advisory committee to make recommendations on issues related to aviation security. The bill would specify details related to the organizational structure and reporting requirements of the proposed advisory committee.

Under current law, TSA already operates an advisory committee related to aviation security. According to TSA, the agency currently spends less than \$100,000 annually to operate the existing committee, which has a mission and organizational structure that is similar to that of the committee envisioned under H.R. 1204. As a result, CBO estimates that implementing H.R. 1204 would have no significant additional cost. H.R. 1204 would not affect direct spending or receipts; therefore, pay-as-you-go procedures do not apply.

H.R. 1204 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1204 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

This legislation requires the Advisory Committee to submit to the TSA Assistant Secretary an annual report containing information on its activities, findings, and recommendations. H.R. 1204 directs the establishment of the following five subcommittees: (1) the air cargo security subcommittee; (2) the general aviation security subcommittee; (3) the perimeter security, exit lane security, and access control subcommittee; (4) the risk-based subcommittee, and (5) the security technology subcommittee. Members of the Advisory Committee with specialized knowledge in these areas are to be appointed to each subcommittee. Additionally, to bring focus to particular aviation security challenges, the subcommittees are directed to provide information and recommendations to the Advisory Committee for inclusion in the annual report. The Advisory Committee is required to submit periodic and annual reports to the Assistant Secretary. The Assistant Secretary is required within 90 days to respond in writing to the Advisory Committee with feedback on each recommendation that the Committee provided to the Assistant Secretary, an action plan to implement any of the recommendations with which the Assistant Secretary concurs, and a justification for rejecting any of its amendments.

DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 1204 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 1204 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1204 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

The Aviation Security Advisory Committee established in H.R. 1447 is exempt from the Federal Advisory Committee Act (FACA).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

The act may be cited as the “Aviation Security Stakeholder Participation Act of 2013”.

Section 2. Aviation Security Advisory Committee

This section amends Subchapter II of chapter 449 of title 49, U.S. Code, by adding at the end the following:

SEC. 4496. AVIATION SECURITY ADVISORY COMMITTEE

This section requires the Assistant Secretary to establish within TSA an advisory committee to be known as the “Aviation Security Advisory Committee” and to consult with the Committee on aviation security matters, including on the development and implementation of policies, programs, rulemaking, and security directives.

The Advisory Committee is required to develop recommendations for improvements to aviation security and submit periodic and annual reports to the Assistant Secretary. The Assistant Secretary is required within 90 days to respond in writing to the Advisory Committee with feedback on each recommendation that the Committee provided to the Assistant Secretary, including an action plan to implement any of the recommendations with which the Assistant Secretary concurs and a detailed justification of why any of the recommendations were rejected. In addition, the Assistant Secretary

must appoint members of the Advisory Committee that consist of individuals representing not more than 32 member organizations within 180 days of enactment.

The membership must include a variety of stakeholders, including but not limited to representatives of air carriers, all cargo air transportation, indirect air carriers, aircraft manufacturers, airport based businesses, the aviation technology security industry, law enforcement and security experts, businesses that conduct security operations at airports, and aeronautical repair stations.

The members of the Advisory Committee are prohibited from receiving pay, allowances, or benefits from the Government for their service on the Committee.

The Advisory Committee is required to meet at least semiannually.

In addition, this section requires the Assistant Secretary to establish an air cargo security subcommittee, general aviation security subcommittee, a perimeter security, exit lane security, and access control subcommittee, a risk-based subcommittee, and a security technology subcommittee within the Advisory Committee.

Each subcommittee is required to meet at least quarterly and submit to the Advisory Committee recommendations for inclusion in the annual report.

Additionally, each subcommittee will consist of committee members with expertise in each subject area and will be co-chaired by a Government and industry official. Subject matter experts with relevant expertise, who are not on the committee but who are appointed by the respective chairperson of a subcommittee of the Advisory Committee, will also be included as members of each subcommittee.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

* * * * *

SUBTITLE VII—AVIATION PROGRAMS

* * * * *

PART A—AIR COMMERCE AND SAFETY

* * * * *

SUBPART III—SAFETY

* * * * *

CHAPTER 449—SECURITY

SUBCHAPTER I—REQUIREMENTS

Sec.
44901. Screening passengers and property.
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SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

* * * * *
44946. Aviation Security Advisory Committee.
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SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

* * * * *

§ 44946. Aviation Security Advisory Committee

(a) *ESTABLISHMENT.*—The Assistant Secretary shall establish within the Transportation Security Administration an advisory committee to be known as the “Aviation Security Advisory Committee”.

(b) *DUTIES.*—

(1) *IN GENERAL.*—The Assistant Secretary shall consult the Advisory Committee on aviation security matters, including on the development, refinement, and implementation of policies, programs, rulemaking, and security directives pertaining to aviation security, while adhering to sensitive security guidelines.

(2) *RECOMMENDATIONS.*—

(A) *IN GENERAL.*—The Advisory Committee shall develop, at the request of the Assistant Secretary, recommendations for improvements to aviation security.

(B) *RECOMMENDATIONS OF SUBCOMMITTEES.*—Recommendations agreed upon by the subcommittees established under this section shall be approved by the Advisory Committee for transmission to the Assistant Secretary.

(3) *PERIODIC REPORTS.*—The Advisory Committee shall periodically submit to the Assistant Secretary—

(A) reports on matters identified by the Assistant Secretary; and

(B) reports on other matters identified by a majority of the members of the Advisory Committee.

(4) *ANNUAL REPORT.*—The Advisory Committee shall submit to the Assistant Secretary an annual report providing information on the activities, findings, and recommendations of the Advisory Committee, including its subcommittees, for the preceding year.

(5) *FEEDBACK.*—Not later than 90 days after receiving recommendations transmitted by the Advisory Committee under paragraph (4), the Assistant Secretary shall respond in writing to the Advisory Committee with feedback on each of such recommendations, an action plan to implement any of such recommendations with which the Assistant Secretary concurs, and a detailed justification for why any of such recommendations have been rejected.

(6) *CONGRESSIONAL NOTIFICATION.*—Not later than 30 days after providing written feedback to the Advisory Committee in accordance with paragraph (5), the Assistant Secretary shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on such feedback.

(7) *REPORT TO CONGRESS.*—Prior to briefing the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate in accordance with paragraph (6), the Assistant Secretary shall submit to such committees a report containing information relating to the recommendations transmitted by the Advisory Committee in accordance with paragraph (4).

(c) *MEMBERSHIP.*—

(1) *APPOINTMENT.*—

(A) *IN GENERAL.*—Not later than 180 days after the date of enactment of this section, the Assistant Secretary shall appoint the members of the Advisory Committee.

(B) *COMPOSITION.*—The membership of the Advisory Committee shall consist of individuals representing not more than 32 member organizations. Each organization shall be represented by one individual (or the individual's designee).

(C) *REPRESENTATION.*—The membership of the Advisory Committee shall include representatives of air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, privacy organizations, the travel industry, airport based businesses, including minority owned small businesses, businesses that conduct security operations at airports, aeronautical repair stations, passenger advocacy groups, the aviation technology security industry, including biometrics, victims of terrorist acts against aviation, and law enforcement and security experts.

(2) *REMOVAL.*—The Assistant Secretary may review the participation of a member of the Advisory Committee and remove such member for cause at any time.

(3) *PROHIBITION ON COMPENSATION.*—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

(4) *MEETINGS.*—The Assistant Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

(d) *AIR CARGO SECURITY SUBCOMMITTEE.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee an air cargo security subcommittee to provide recommendations on air cargo security issues, including the implementation of the air cargo security programs established by the Transportation Security Administration to screen air cargo on passenger aircraft and all-cargo aircraft in accordance with established cargo screening mandates.

(2) *MEETINGS AND REPORTING.*—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding air cargo security. Such submissions shall include recommendations to improve the Transportation Security Administration’s cargo security initiatives established to meet the requirements of section 44901(g).

(3) *MEMBERSHIP.*—The subcommittee shall—

(A) include members of the Advisory Committee with expertise in air cargo operations; and

(B) be cochaired by a Government and industry official.

(e) *GENERAL AVIATION SECURITY SUBCOMMITTEE.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee a general aviation subcommittee to provide recommendations on transportation security issues for general aviation facilities, general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

(2) *MEETINGS AND REPORTING.*—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding aviation security at general aviation airports.

(3) *MEMBERSHIP.*—The subcommittee shall—

(A) include members of the Advisory Committee with expertise in general aviation; and

(B) be cochaired by a Government and industry official.

(f) *PERIMETER SECURITY, EXIT LANE SECURITY, AND ACCESS CONTROL SUBCOMMITTEE.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee an airport perimeter security, exit lane security, and access control subcommittee to provide recommendations on airport perimeter security, exit lane security at commercial service airports, and access control issues.

(2) *MEETINGS AND REPORTING.*—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding improving perimeter security, exit lane security at commercial service airports, and access control procedures at commercial service and general aviation airports.

(3) *MEMBERSHIP.*—The subcommittee shall—

(A) include members of the Advisory Committee with expertise in airport perimeter security and access control issues; and

(B) be co-chaired by a Government and industry official.

(g) *RISK-BASED SUBCOMMITTEE.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee a risk-based subcommittee to provide recommendations on passenger screening policies and cargo.

(2) *MEETINGS AND REPORTING.*—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) in-

formation, including recommendations, regarding the Transportation Security Administration's risk-based security programs.

(3) MEMBERSHIP.—The subcommittee shall—

(A) include members of the Advisory Committee with expertise in passenger advocacy and airport security operations; and

(B) be cochaired by a Government and industry official.

(h) SECURITY TECHNOLOGY SUBCOMMITTEE.—

(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee a security technology subcommittee to provide recommendations on security technology issues, including harmonization of security technology standards and requirements.

(2) MEETINGS AND REPORTING.—The subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding security technology. Such submissions shall include recommendations to improve the Transportation Security Administration's utilization of security technology and harmonization of security technology standards and requirements. All recommendations shall be in furtherance of aviation security and technology neutral.

(3) MEMBERSHIP.—The subcommittee shall—

(A) include members of the Advisory Committee with expertise in checkpoint, baggage, and air cargo security technology; and

(B) be co-chaired by a Government and industry official.

(i) OTHER SUBCOMMITTEES.—The Assistant Secretary, in consultation with the Advisory Committee, may establish within the Advisory Committee any other subcommittee that the Assistant Secretary and Advisory Committee determine necessary.

(j) SUBJECT MATTER EXPERTS.—Each subcommittee under this section shall include subject matter experts with relevant expertise who are appointed by the respective subcommittee chairperson.

(k) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee and its subcommittees.

(l) DEFINITIONS.—In this section, the following definitions apply:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Aviation Security Advisory Committee established under subsection (a).

(2) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Homeland Security (Transportation Security Administration).

(3) PERIMETER SECURITY.—The term "perimeter security"—

(A) means procedures or systems to monitor, secure, and prevent unauthorized access to an airport, including its airfield and terminal; and

(B) includes the fence area surrounding an airport, access gates, and access controls.

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ADDITIONAL VIEWS

I was pleased that during consideration of H.R. 1204, the “Aviation Security Stakeholder Participation Act of 2013,” my amendment broadening the scope of the subcommittee on perimeter security to include the distinct issue of exit lane security was adopted with the unanimous support of the Committee.

Since 9/11, exit lanes at many commercial service airports have been protected by Transportation Security Officers. This past spring, in its budget submission to Congress, TSA announced that it would discontinue its practice of providing security services at exit lanes. This decision was made without formal engagement with stakeholders.

If TSA proceeds with its plan, airport operators will be forced to hire security guards, purchase and install new security technology or some combination of both. It is regrettable that this change to the security operations at our nation’s commercial airports was announced without first engaging in formal consultation with the airport operators it directly impacts.

In July, Airports Council International conducted a survey of its Member airports to assess the financial impact on airport operators should TSA finalize its proposed policy change. As a result of that survey, Airports Council International calculated that the total annual cost for airport operators to provide staff to monitor exit lanes would be more than \$159 million.

While my amendment does not prohibit TSA from moving forward with its proposed policy change regarding exit lanes, it would ensure that going forward, stakeholders, such as the airport operators that will be required to implement the policies TSA mandates will have a voice in the process via the Aviation Security Advisory Committee. I am pleased that my amendment garnered the support of the Airports Council International, Airlines for America, the American Association of Airport Executives, and the Regional Airline Association.

I look forward to enactment of H.R. 1204, a bill introduced by Ranking Member Thompson, so that the Aviation Security Advisory Committee never again becomes inactive and has its charter laps, as happened during the previous Administration, and the establishment of a subcommittee on exit lane security is realized.

STEVEN HORSFORD.

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